1324

# SUPREME COURT OF THE UNITED STATES.

No. 76.

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EDWARD SARCHET, ET AL. APPELLANTS,

VERSUS

THE UNITED STATES.

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ON APPEAL FROM THE CIRCUIT COURT UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

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## INDEX.


| | Original. | Print. |
|---|---|---|
| Clerk's certificate | 1 | 3 |
| Writ of error to the district court | 2 | 3 |
| Proceedings in the district court | | 4 |
| Declaration | 4 | 4 |
| Duty Bond | 6 | 5 |
| Issue joined | 7 | 6 |
| Jury sworn | 9 | 7 |
| Judgment of district court | 10 | 7 |
| Bill of exceptions | 10 | 12 |
| Proceeding in the circuit court | | 7 |
| Assignment of errors | 19 | 12 |
| Joinder, &c. | 20 | 13 |
| Judgment of circuit court | 21 | 13 |
| Appeal prayed | 22 | 14 |
| Petition to the supreme court | 23 | 14 |

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INDEX.


| | Original. | Print. |
|---|---|---|
| Clerk's certificate - - - - - | 1 | 3 |
| Writ of error to the district court - - - - | 2 | 3 |
| Proceedings in the district court - - - - | | 4 |
| Declaration - - - - - | 4 | 4 |
| Duty Bond - - - - - | 6 | 5 |
| Issue joined - - - - - | 7 | 6 |
| Jury sworn - - - - - | 9 | 7 |
| Judgment of district court - - - - | 10 | 7 |
| Bill of exceptions - - - - - | 10 | 12 |
| Proceeding in the circuit court - - - - | | 7 |
| Assignment of errors - - - - - | 19 | 12 |
| Joinder, &c. - - - - - | 20 | 13 |
| Judgment of circuit court - - - - | 21 | 13 |
| Appeal prayed - - - - - | 22 | 14 |
| Petition to the supreme court - - - - | 23 | 14 |

UNITED STATES OF AMERICA,

*Southern District of New York, ss.*

I, Frederic J. Betts, clerk of the circuit court of the United States of America, for the southern district of New York, in the second circuit, do hereby certify that the writings annexed to this certificate are true copies of their respective originals, on file, and remaining of record in my office.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, and second circuit, this eighteenth day of January, in the year of our Lord one thousand eight hundred and thirty-eight, and of the independence of the said United States, the sixty-second.

[SEAL.] FRED. J. BETTS, *Clerk.*

*Circuit Court of the United States of America, for the Southern District of New York, in the Second Circuit.*

Pleas in the circuit court of the United States of America, for the southern district of New York, in the second circuit, at the city hall, of the city of New York, in the district and circuit aforesaid, before the judges of the same court, of the term of April, in the year of our Lord one thousand eight hundred and thirty-six.

Witness the honorable John Marshall, chief justice of the United States.

FRED. J. BETTS, *Clerk.*

UNITED STATES OF AMERICA, ss.

The President of the United States of America, to the judge of the the district court of the United States, for the southern district of New York, *greeting:*

Because, in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said district court before you, between the United States of America, and Edward Sarchet, Albert Woodhull, and Edward Minturn, a manifest error hath happened, to the great damage of the said Edward Sarchet, Albert Woodhull, and Edward Minturn, as by their complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the circuit court of the United States, for the southern district of New York, in the second circuit, together with this writ, so that you have the same at the city of New York, on

the first Monday of April next, in the said circuit court, to be then and there held, that the record and proceedings aforesaid being inspected, the said circuit court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the honorable Joseph Story, senior, associate justice of the Supreme Court of the United States, this fifteenth day of March, in the year of our Lord one thousand eight hundred and thirty-six, and of the independence of the United States the sixtieth

FREDERICK J. BETTS, *Clerk.*

The answer of the honorable Samuel R. Betts, judge of the district court of the United States, for the southern district of New York, the judge within named.

The record and proceedings of the plaintiff, whereof mention is within made, with all things concerning the same, I certify to the circuit court of the United States, for the second circuit, in and for the southern district of New York, within specified, at the day and place within contained, in a schedule to this writ annexed, as within, I am commanded.

SAMUEL R. BETTS.

FREDERICK J. BETTS, *Clerk.*

*District Court of the United States of America, for the Southern District of New York.*

Pleas in the district court of the United States of America, for the southern district of New York, held at the city of New York, in the said southern district, before the same court, of the stated term of October, in the year of our Lord one thousand eight hundred and thirty-four.

Witness the honorable Samuel R. Betts, judge of the said court.

FREDERICK J. BETTS, *Clerk.*

SOUTHERN DISTRICT OF NEW YORK, ss.

The United States of America plaintiffs in this suit, put in their place William M. Price, their attorney, for the southern district of New York, against Edward Sarchet, Albert Woodhull, and Edward Minturn, in the plea of debts.

SOUTHERN DISTRICT OF NEW YORK, ss.

Edward Sarchet, Albert Woodhull, and Edward Minturn defendants in this suit, put in their place Charles Walker, their attorney, at the suit of the United States of America, in the plea aforesaid.

SOUTHERN DISTRICT OF NEW YORK, ss.

Be it remembered, that on the sixteenth day of October, as yet of the same term of October, before the district court of the United States of America, for the southern district of New York, held at the city of New York, in the said southern district, before the judges of

the same court, comes William M. Price, attorney of the said United States of America, for the southern district of New York, who prosecutes for the said United States in this behalf, and on behalf of the said United States, brings into the said district court, now here, a certain bill of the said United States, against Edward Sarchet, Albert Woodhull, and Edward Minturn, being in custody, &c. in a plea of debt, which said bill follows in these words, to wit:

SOUTHERN DISTRICT OF NEW YORK, ss.

The United States of America plaintiffs in this suit, by William M. Price, the attorney of the said United States, complain of Edward Sarchet, Albert Woodhull, and Edward Minturn, defendants in this suit, being in custody, &c. of a plea, that they, the said defendants in this, render to the said United States eight hundred dollars, lawful money of the said United States, which they, the said defendants, in this suit, owe to the said United States, and unjustly detain from the the said United States, for this, to wit: That, whereas, the said defendants in this suit heretofore, to wit, on the first day of April, in the year one thousand eight hundred and thirty-four, at the city of New York, in the southern district of New York, at the first ward of the said city, and within the jurisdiction of this court, by their certain writing, sealed with the seals of them, the said defendants, in this suit, and to the district court of the United States, for the southern district of New, now here shown; the date of which said writing obligatory, is on the same day and in the same year, last before specified, acknowledged themselves to be held and firmly bound unto the said United States, in the said sum of money, herein above demanded, to be paid to the said United States, when they, the said defendants in this suit, should be thereto afterwards requested; yet the said defendants in this, though often requested to pay the said sum of money, above demanded, to the United States, have not yet paid the said sum of money, above demanded, or any part thereof, to the said United States; but they, the said defendants in this suit, have, and each of them, hath hitherto wholly refused, and still refuse to pay the same, or any part thereof, to the said United States; to the damage of the said United States, of one hundred dollars, and therefore, the said attorney, on behalf of the said United States, brings suit, &c.

And the said defendants, by Charles Walker, their attorney, come and defend the wrong and injury, when, &c. and crave Oyer of the said supposed writing obligatory, in the said declamation mentioned, and is read to them in these words:

No. 5432.

[$345]

Know all men by these presents, that we, Edward Sarchet, and Woodhull, and Minturn, are held and firmly bound unto the United States of America, in the sum of eight hundred dollars, to be paid to the said United States; for payment whereof, we bind our ourselves,

our heirs, executors, and administrators, jointly and severally, firmly, by these presents, sealed with our seals, dated this first day of April, in the year of the independance of the said United States, and in the year of our Lord one thousand eight hundred and thirty-four.

The condition of this obligation is such, that the above bounden Edward Sarchet, and Woodhull, and Minturn, or either of them, or either of their heirs, executors, or administrators, shall and do, on or before the first day of October next, well and truly pay, or cause to be paid unto the collector of the customs, for the district of New York, for the time being, the sum of four hundred dollars, or the amount of duties, to be ascertained as due and owing on certain goods, wares, and merchandise, entered by the above bounden Edward Sarchet as imported in the ship Birmingham, Patterson, master, from Liverpool, as *per entry* dated ; then the above obligation to be void, otherwise to remain in full force and virtue.

JOHN SARCHET. [SEAL.]
*Attorney for E. Sarchet.*
WOODHULL & MINTURN. [SEAL.]
*Per Edward Minturn.*

Sealed and delivered in the presence of
N. B. BYRAN.

Which being read and heard, the said defendants say, that the said supposed writing obligatory, is not their deed; of this they put themselves on the country, and the said plaintiff likewise, &c. And the defendants give with their plea aforesaid, in the words and figures following, to wit:

SIR:—The defendants on the trial will insist upon, give in evidence, that the bond or obligation on which the plaintiffs have declared, was wrongfully obtained from the defendants, Samuel Swartwout, collector of the customs of the United States, for the port of New York, upon an importation of links and anchor iron, in the ship Birmingham, from a foreign port, viz, from Liverpool, by the defendant, Edward Sarchet; which said links were exempt from duty by the laws of the United States, upon which the said Samuel Swartwout, as such collector, imposed a duty of three cents *per pound* on said links, and two cents *per pound* on said anchor iron, and compelled the defendant, Edward Sarchet, as principal, and these defendants, Albert Woodhull and Edward Minturn, as sureties, to execute the bond in this suit, for the duties aforesaid, and which they were obliged to do, before the said Samuel Swartwout, collector as aforesaid, would deliver to the defendant, Edward Sarchet, his said links and anchor iron; and these defendants aver, that, by the laws of the United States, no bond was demandable of this defendant, Edward Sarchet, on said importation and entry thereof, and the same was extorted, and is void.

Therefore, to try the issue above joined, it is commanded to the marshal of the United States, for the southern district of New York, that he cause a jury to come at the next district court of the United

States, for the southern district of New York, to be held at the city hall, of the city of New York, in the said southern circuit, before the judge of the said court on the first Tuesday of November next, each of whom, &c., by whom, &c., and who, &c., to recognise, &c., because as well, &c.; the same day is given to the parties aforesaid.

At which day and place aforesaid, in the said district court, and the parties aforesaid, by their respective attorneys aforesaid, and the said marshal doth not return the said writ, nor hath he done any thing thereupon.

Therefore, as before, let a jury come at the next district court of the United States of America, for the southern district of New York, to be held at the city hall, of the said city of New York, before the judge of the same court, on the first Tuesday of December next, each of whom, &c., by whom, &c., and who, &c., to recognise, &c., because as well, &c.; the same day is given to the parties aforesaid, &c.

At which day and place as aforesaid, in the said district court, come the parties aforesaid, by their respective attorneys aforesaid, and jurors of jury, whereof mention is within made, being summoned, also come, who, to speak the truth of the matters within contained, be chosen, tried, and sworn, say, upon their oath, that the within mentioned writing obligatory, is the deed of the said Edward Sarchet, Albert Woodhull, and Edward Minturn as the said, the United States of America hath within in that behalf alleged, and they assess the damages of the said, the United States of America, on occasion of the detaining the within debt, over and above their costs ad charges, by them about their suit in this behalf expended, to three hundred and forty-nine dollars and sixty cents, and for their costs and charges to six cents.

Whereupon, it is considered that the said United States of America do recover against the said Edward Sarchet, Albert Woodhull and Edward Minturn, three hundred and forty-nine dollars and sixty cents, by the said jury, in form aforesaid assessed; and also two hundred and thirty-three dollars and twenty-two cents, for their said costs and charges, by the said district court, before the judge thereof, now here, adjudged of, increase to the said United States of America, and with their assent; which said damages, costs and charges, in the whole, amount to five hundred and eighty-two dollars and eighty-eight cents; and let the said Edward Sarchet, Albert Woodhull and Edward Minturn, inasmuch as they have denied their deed, be taken, &c.

Judgment signed, this 15th day of March, A. D. 1836.

FRED. J. BELTS, *Clerk.*

Which said issue, in form aforesaid, joined between the parties aforesaid, to wit, at a district court of the United States, for the southern district of New York, in the second circuit, at the city hall of the city of New York, before the honorable Samuel R. Betts, judge of the said district court on the first Tuesday of December in the year of our Lord one thousand eight hundred and thirty-four, come on to be tried by a jury of the southern district of New York, for that purpose empannelled.

At which day came there as well the said United States of America, by William M. Price, their attorney, as the said Edward Sarchet, Albert Woodhull and Edward Minturn, by Charles Walker, their attorney aforesaid, and the jurors of the jury aforesaid, empannelled to try the said issue, being called, come and were then and there, in due manner sworn to try the said issue in manner and form aforesaid, joined, and upon the trial of the said issue, the counsel learned in the law for the said plaintiffs to maintain and prove the said issue, on their part proved the execution of the bond by the defendants, and claimed a verdict for the sum of three hundred and forty-nine dollars and sixty cents, being two cents per pound upon the anchor iron, and three cents per pound upon the links, mentioned and set forth, upon the invoice upon the entry, of which said bond was taken and executed.

And the said defendants, to maintain the issue on their part, called

Elisha Packard, who being sworn for defendants, says, he formerly commanded vessels; is now a ship chandler in New York city, and sells chain cables and anchors. The articles before me are known in commerce as links. Never heard any other name for them. I know an article in commerce called anchor iron. I never heard it called any thing else. These articles are so sold, bought, and invoiced.

CROSS.

When we send for anchor iron we get forged out in form of flukes, &c. The ball does not belong to the anchor when we get it in these forms. I cannot tell what per cent. of labor has been performed upon it. About two or three cents per pound difference between being in anchor iron and the anchor already made. Anchors are sometimes used without a palm. In hard ground I should prefer an anchor without a palm. Anchors upwards of 150 lbs. are usually made with palms. Anchors are not made without flukes. Would not call a piece of anchor iron a fluke until it is made up into the anchor. Witness describes anchor iron making, and says that the anchor iron for a fluke is not a part of an anchor until it has been in the anchor. The links are designed for no other purpose than that of making anchors.

George A. Dwight, sworn for defendants, says, he has been in hardware business. The articles before me are links. As a merchant, I know no other name for them. In commerce there is such an article as anchor iron. No other name for it. The articles are so bought, sold, and invoiced.

CROSS.

A part of an anchor is a piece cut off from an anchor. It must have been in an anchor. Can have no idea of part of an anchor partly manufactured. A fluke or link may be a fluke or link partly manufactured. Am hardware merchant. Shovel blades I hold not to be

a part of a shovel. To the court. A shovel blade is no part of a shovel till it has been in a shovel, not part of a shovel more than iron ore is. Dont think a piece of anchor iron can be part of an anchor till it has been incorporated into a whole anchor. Dont know about the copper bottoms.

Daniel Ayres sworn for defendants. Been long in the iron business; once owned works; now in iron business. These articles are called links, there is no other name. We invoice them so. I know anchor iron is so invoiced, bought, and sold.

CROSS.

Is an iron merchant. Supposes palms, flukes, and shanks, would be considered as parts of anchors, partly manufactured. Has been called upon before for an opinion upon the dispute about links.

Mr. Price reads the report of Satters & Ayres. Ayres acknowledges the report, but says they went too far. Dont wish to to impute any fraud to Mr. Sarchet.

(Copy Report.)

DIRECT.

The straight pieces of iron are called straight links. "Never saw them invoiced or ordered, or sold as parts of chains partly manufactured. Never heard anchor iron invoiced, ordered or sold, as parts of anchors partly manufactured. Order would be for anchor iron. Making chains and anchors are separate from making links and anchor iron.

Among merchants, links are not parts of chains. Mr. Satters wrote the certificate. I would have called them links, not parts of chains. Links are a part of a chain as much as a bench is part of a court room. Two links might make chain. To juror. Iron, like the specimens, is not used for any thing save chains. Making and bending links is a distinct business from chain making.

Abijah Fisher called for defendants. Is a merchant of New York city, and was agent for a concern for making links, in 1824–5 and 6. The articles were sold and ordered by the name of links and by no other name. Gives a history of the business; says they came down packed in boxes for making chains.

CROSS.

The links and anchor iron were not intended for any other purpose than that of making chain cables and anchors.

J. W. Pangborne for defendants. Carries on anchor and chain ma-

king, at the old Sterling works. The specimens are called links; known them so for 12 or 13 years. Never called by any other name; knows anchor iron, never called by any other name than anchor iron.

Luther Stebbins for defendants. Makes anchor chains. Has worked at it for years. The articles are called links, never heard them called by any other name; knows anchor iron has no other name. Palms, flukes, &c. are not called parts; can be applied to no other use; are drawn at forges; never made by the anchor maker. To court. Were I making an anchor at my own shop, when I have hammered out the shank, I have done work upon the anchor intended to be made.

DEFENDANT'S REST.

Nicholas W. Salters, for plaintiffs. Has been for 10 years a manufacturer of iron. Has been an iron merchant 35 years. Has no question that palms, flukes, &c. like this importation, are parts of anchors, were formerly made from bar iron. Bar iron is 5 cents per pound; costs 1 cents per lb. to make it palms, flukes, and flanks. Anchors of 500 or 1000 lbs. are 8 cents per lb. Specimens called links, designed for chains and nothing else, on them 3-5 of the labor has been employed. Chain cable iron is worth more than other iron. Some people think American iron is as good as English iron. Some dont think so.

CROSS.

Cant say what is the commercial name of links. They are known as chain cable links. Acknowledges certificate signed by him and Ayres.

Alex'r. Berbeck for plaintiffs. The specimens are called palms and anchor moulds. They are parts of anchors. These specimens are chain links; are parts of chains; are worth 5 cents per pound for chain cable links; not intended for any other purpose. Is a manufacturer of cables and anchors.

CROSS.

Have bought chain links. They are invoiced cable links. "Have bought anchor iron. It was invoiced "anchor moulds." Would call the bent specimen a link. Would tell my boy to bring me that link, or that palm, or that shank or arm.

PLAINTIFF'S REST.

David S. Lyon for defendants. Is deputy collector. After the decision of the U. S. D. court, upon the seizure of these articles, un-

der the former law of 1828, the duties on them were liquidated at 15 per cent. as non enumerated articles. The entry was under a former law. They were entered as bent, turned and straight links, and as anchor iron.

CROSS.

Mr. Sarchet was first and only importer of links, excepting one instance where an experiment was made but failed. Knows of no other importer of these things save Mr. Sarchet.

Whereupon, the counsel for the said defendants then and there insist, before the said judge, on behalf of the defendants, and requested said judge to charge the jury that the several matters produced and given in evidence, were insufficient to entitle the plaintiffs to a verdict, and that the acts of Congress were regulations of commerce and revenue, and used words thereon in their known and habitual commercial sense.

That if these articles, among buyers and sellers generally, in the course of trade and business, have acquired the appellations of links and anchor iron, and not enumerated by these denominations in the tariff laws, they are exempt from duty.

That those laws do not attempt to define the distinguishing qualities of commodities, but adopt the known and habitual commercial appellations of commodities, and the jury should also adopt those appellations.

That if in a loose signification those articles are sometimes called a defined part of chains, manufactured in part, " and parts of anchors, manufactured in part; yet, if among merchants and manufacturers, buyers and sellers, they are bought, sold and used and invoiced as links and anchor iron," and are not found in the laws by those names, whatever may be their distinguishing qualities, they are exempt from duty.

And the said judge, then and there delivered his opinion to the jury aforesaid, that although these acts of Congress were regulations of commerce and revenue, yet they were not solely so, but were also intended to protect domestic productions or home interests. He would not say manufacturers exclusively, but domestic productions, and in their construction the protection of revenue and domestic productions were both to be kept in view.

That when the laws, in describing imports, adopt and use the commercial names thereof, no other articles would be embraced than those so known in commerce, although of similar properties, or intended to answer similar uses, but although articles may be well known by distinctive appellations in trade and commerce, it did not follow that they were to be considered non enumerated articles, because not designated in law by such specific appellation.

That if there are terms employed in the law, that by plain description embrace links and anchor iron, they are equally enumerated arti-

cles as if called by those names specifically, and would be subject to the duty of the articles embraced by such terms.

That if the jury found these links were comprehended and described by these terms " parts of (links) *chains* manufactured in part, then they are subject to a duty of three cents *per pound*, and if the anchor iron is described by the terms, part of anchors manufactured in part, it must pay a duty of two cents per pound, and the plaintiffs would have a right to a verdict for the amount of the bond, in which they were so charged.

To this charge the defendants excepted, and the jury found a general verdict for the plaintiffs of three cents per pound upon the links, and two cents per pound on the anchor iron.

Whereupon, the said counsel for the defendants, did, then and there, on behalf of the defendants, except to the aforesaid refusal of the said judge to charge as above insisted upon, by the said defendants, and to the charge of the said judge to the jury aforesaid.

And, inasmuch as the said several matters so produced and given in evidence, on the part of the defendants and plaintiffs so insisted upon and objected to, do not appear by the record of the verdict aforesaid, the counsel for the defendants did, then and there propose his exceptions to the opinion of the said judge, and requested him to put his seal to those several matters so produced and given in evidence, objected to and insisted upon, on the part of the defendants, according to the form of the statute in such case made and provided.

And thereupon, the said judge, at the request of the counsel for the said defendants, did put his seal to this bill of exceptions, pursuant to the statute, on the day of in the year one thousand eight hundred and thirty.

(Signed) SAMUEL R. BETTS. [SEAL.]

Afterwards, that is to say, of April term, to wit, of the first Monday of April, in the year one thousand eight hundred and thirty-six, before the judges of the circuit court aforesaid, at the city hall, in the city of New York, come the said Edward Sarchet, Albert Woodhull, and Edward Minturn, by Charles Walker, their attorney, and say that in the record and proceedings aforesaid, and in giving the judgment aforesaid, there is manifest error in this, to wit, that the declaration aforesaid, and the matters therein contained, are not sufficient in law, for the said, the United States of America, to have or maintain their aforesaid action thereof, against the said Edward Sarchet, Albert Woodhull, and Edward Minturn. There is also error in this, to wit, that by the record aforesaid, it appears that the judgment aforesaid, in form aforesaid, given, was given for the said, the United States of America against the said Edward Sarchet, Albert Woodhull and Edward Minturn, whereas, by the law of the land, the said judgment ought to have been given for the said Edward Sarchet, Albert Woodhull and Edward Minturn, against the said the United States of America.

And the said Edward Sarchet, Albert Woodhull and Edward Min-

turn, pray that the judgment aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed and annulled, and altogether held for nothing, and that they may be restored to all things which they have lost by occasion of the said judgment, &c.

And thereupon, the said, the United States of America, by William M. Price, attorney of the said United States of America, freely come before the judges of the circuit court of the United States of America, for the southern district of New York, in the second circuit, at the city hall of the city of New York, and say that there is not any error in the record and proceedings aforesaid, or in giving the judgment aforesaid, and they pray that the said circuit court of the United States of America, for the southern district of New York, in the second circuit here, may proceed to examine as well the record and proceedings aforesaid, as the matter aforesaid, above assigned for error, and that the judgement aforesaid, in form aforesaid given, may be in all things affirmed, and because, &c.

At which day, before the said judges of the circuit court of the United States for the southern district of New York, in the second circuit, at the city hall of the city of New York, in the said southern district of New York, come the parties aforesaid, by their attorneys aforesaid. Whereupon, as well the record and proceedings aforesaid, and the judgment given in form aforesaid, as the matter aforesaid, by the said Edward Sarchet, Albert Woodhull and Edward Minturn above, for error assigned, being seen, and by the said circuit court of the United States, before the aforesaid judges thereof, now herein fully understood, and mature deliberations being thereupon had, it appears to the said court before the said judges thereof now here, that there is no error either in the record and proceedings aforesaid, or in the giving the judgment aforesaid.

Therefore it is considered that the judgment aforesaid given, be, in all things affirmed, and stand in full force and effect, the several matters above for error assigned in any wise notwithstanding.

And it is further considered, that the said United States of America, do recover against the said Edward Sarchet, Albert Woodhull and Edward Minturn, as well their debt and damages aforesaid, as also thirty-one dollars and thirty-five cents, adjudged to them by the said circuit court of the United States, before the judges thereof now herein, according to the form of the statute, in such case made and provided, for their damages, costs and charges, which they have sustained and expended on pretence of the prosecution of the said writ of error, which said damages, costs and charges, in the whole, amount to six hundred and fourteen dollars and twenty-three cents; and the said United States of America have execution thereof, &c. and the said Edward Sarchet, Albert Woodhull and Edward Minturn, in mercy, &c.

Judgment signed the 16th day of January, 1838.

FRED. J. BETTS, *Clerk.*

CILCUIT COURT OF THE UNITED STATES,
*For the Southern District of New York.*

EDWARD SARCHET, ALBERT WOODHULL, and EDWARD MINTURN, *ads.* THE UNITED STATES OF AMERICA.

Edward Sarchet, Albert Woodhull, and Edward Minturn, hereby appeal from the judgment rendered in the above entitled cause, in the circuit court of the United States, for the southern district of New York, on the sixteenth day of January, one thousand eight hundred and thirty-eight, to the present Supreme Court of the United States, at the city of Washington; and they pray that the judgment, record, bill of exceptions, and all the proceedings in the said cause, may be sent to the present Supreme Court of the United States, at the city of Washington.

SAMUEL J. WILKIN,
*Atty. for Applts.*

Dated January 16th, 1838.

CIRCUIT COURT OF THE UNITED STATES,
*For the S. District of New York.*

EDWARD SARCHETT, ALBERT WOODHULL, and EDWARD MINTURN, *ads.* THE UNITED STATES OF AMERICA.

*To the Supreme Court of the United States:*

The petition and appeal of Edward Sarchett, Albert Woodhull, and Edward Minturn, the above named defendants, respectfully showeth:

That on or about the 15th day of March, 1836, a judgment was rendered in the above entitled cause, in favor of the plaintiffs, in the district court of the United States for the southern district of New York, which cause was removed by writ of error, to the circuit court of the United States, for the southern district of New York, in which last mentioned court the said judgment was in 'all things affirmed, and a judgment rendered in the said circuit court, in favor of the plaintiffs against the said defendants.

And your petitioners further state, that there is error in said judgment, and appeals to the present Supreme Court of the United States, at Washington, and pray that the said Supreme Court of the United States may proceed to hear and determine said cause, and that the said judgment in the circuit court of the United States, for the southern district of New York, may, in all things be reversed and set aside,

and held for nought; and that your petitioners may have such other and further relief as to the said Supreme Court of the United States shall seem meet and proper.

And your petitioners, as in duty bound, will ever pray.

SAMUEL J. WILKIN,
*Atty. for Petn.*

Dated Jannary 16th, 1838.